

Remarks

Claims 1-13 are pending in the present application with claims 1, 5, and 9 in independent form. Independent claim 9 is currently amended. Support for the amendment to independent claim 9 can be found throughout the application and no new matter is being introduced. For example, support for the amendment to claim 9 can be found at least at page 3, line 36 through page 4, line 8; page 10, line 30 through page 11, line 3; and page 12, lines 16-22.

Claims 9-11 stand rejected under 35 U.S.C. §103(a) as being unpatentable over WO 01/06876 to Matsumoto (hereinafter Matsumoto) in view of JP 11201624 to Sanpei (hereinafter Sanpei). The Examiner has indicated that claims 1-8 and 12-13 are allowed.

By way of background, the specification of the present Application is discussed hereinafter merely in an effort to highlight the distinction between claim 9, as amended, and the combination of Matsumoto and Sanpei. With reference to Figures 2a and 2b of the present Application, an antibacterial agent 52 is sealed in a polymer case 31. As set forth at page 3, line 36 through page 4, line 8 and at page 10, line 30 through page 11, line 3, the antibacterial agent 52 is adsorbed on the polymer case 31 and permeates through the polymer case 31 by adsorption of the antibacterial agent on the wall. As one of the several examples provided at page 12, lines 16-22, the polymer case 31 can be polypropylene and the antibacterial agent can be allyl isothiocyanate sealed, without a ventilation hole, in the polymer case 31. In such an example, the allyl isothiocyanate disseminates slowly to gas-permeate the wall of the polymer case 31.

Independent claim 9, as currently amended, claims that “the thickness of the wall of said synthetic polymer case is formed thinner than another wall opposing said wall allowing gas permeation of the antibacterial agent by adsorption of the antibacterial agent on the wall.” (emphasis added). The Applicants respectfully assert that the combination of Matsumoto and Sanpei fail to teach, or even suggest, gas permeation of the antibacterial agent by adsorption of the antibacterial agent on the wall, as claimed in amended claim 9.

First, the Applicants agree with the Examiner's statement on page 2 of the Final Office Action that Matsumoto fails to disclose a thin wall that is formed to allow gas permeation of the antibacterial agent. However, the Examiner relies upon Sanpei for the disclosure that “a lid (25) having a relative thin thickness is formed to allow permeation of the antibacterial agent as the lid

is moved up and down...” (emphasis added). As the undersigned and the Examiner discussed during the interview summarized above, Sanpei merely discloses that the antibacterial agent is released from the box 24 when the lid 25 is opened. However, when the lid is closed, the lid 25 seals the antibacterial agent in the box 24. As such, Sanpei does not teach, or even suggest, “gas permeation of the antibacterial agent by adsorption of the antibacterial agent on the wall surface” (emphasis added) as claimed in amended claim 9. For this reason, the Applicants respectfully assert that amended independent claim 9 overcomes the rejection based on the combination of Matsumoto and Sanpei.

In view of the foregoing, it is respectfully submitted that independent claims 1, 5, and 9, and the claims that depend therefrom, are both novel and non-obvious such that these claims are in condition for allowance, which allowance is respectfully requested. If any issue regarding the allowability of any of the pending claims could be readily resolved, or if other action could be taken to further advance prosecution, such as an Examiner’s Amendment, it is respectfully requested that he Examiner telephone the undersigned in this regard.

This Amendment is considered timely with a one-month extension of time. Although no additional fees are believed to be due, the Commissioner is authorized to charge our Deposit Account No. 08-2789 in the name of Howard & Howard Attorneys PLLC for any fees or credit the account for any overpayment for this matter.

Respectfully submitted,

HOWARD & HOWARD ATTORNEYS PLLC

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